

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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In re: Bair Hugger Forced Air Warming  
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

This Document Relates To:  
All Actions

**DECLARATION OF ANDREW  
CHEN IN SUPPORT OF  
DEFENDANTS' MEMORANDUM IN  
OPPOSITION TO PLAINTIFFS'  
MOTION SEEKING *IN CAMERA*  
REVIEW OF TEN DOCUMENTS  
WITHHELD UNDER CLAIMS OF  
PRIVILEGE**

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I, ANDREW CHEN, do declare and state the following:

1. I am a Senior Engineer Specialist in the Department of Engineering Systems and Technology at 3M. I have been in this position for several years. I have been an employee of 3M since 1993.

2. I submit this declaration at the request of counsel for 3M. I understand from 3M's counsel that the facts stated in this declaration will be used in support of Defendants' Memorandum in Opposition to Plaintiffs' Motion Seeking *In Camera* Review of Ten Documents Withheld Under Claims of Privilege.

3. All of my statements in this Declaration are based on my personal knowledge of the events that occurred in August through October, 2015.

4. In August 2015, Maureen Harms, one of 3M's in-house counsel, requested my assistance and expertise, along with the expert assistance of Dave

Eaton and other select 3M employees (hereinafter “the Consulting Expert Team”), in consultation of and in connection with lawsuits against 3M in Texas and Kansas concerning the safety of the Bair Hugger patient warming system. One of the allegations against 3M and the Bair Hugger patient warming system in the Texas and Kansas cases was that the Bair Hugger system increased the risk of infection in patients. It was my understanding from Ms. Harms’ request that the Consulting Expert Team was formed under Ms. Harms’ direction as 3M’s legal counsel to assist in the defense of these cases, and our efforts would be confidential, privileged and controlled and directed by Ms. Harms.

5. The law firm of Greenberg Traurig was 3M’s outside litigation counsel for these Texas and Kansas cases. The Consulting Expert Team had numerous communications with Greenberg Traurig attorneys, along with Ms. Harms, to support Ms. Harms and her legal team in the defense of 3M in these cases.

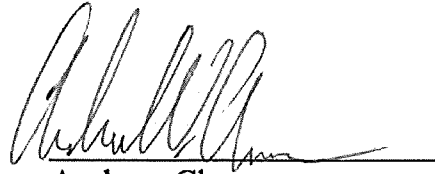
6. Neither I nor Mr. Eaton works in the Infection Prevention Division business of 3M. Neither of us has been involved in the design or manufacture of the Bair Hugger patient warming system. My understanding is that we were engaged by Ms. Harms due to our relevant expertise.

7. I had no knowledge of the Texas and Kansas cases and the Bair Hugger litigation other than information provided by Ms. Harms and outside litigation counsel.

8. In October, 2015, the results of the work the Consulting Expert Team performed at Ms. Harms' request and direction were provided by us only to Ms. Harms and 3M's outside litigation counsel, Greenberg Traurig.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: March 12, 2018

  
Andrew Chen